September 18, 2019
NVTA Agenda Item 11.6
Continued From: New
Action Requested: INFORMATION/ACTION

NAPA VALLEY TRANSPORTATION AUTHORITY
Board Agenda Letter

TO:	Board of Directors
FROM:	Kate Miller, Executive Director
REPORT BY:	Kate Miller, Executive Director (707) 259-8634 / Email: kmiller@nvta.ca.gov
SUBJECT:	State and Federal Legislative Update and State Bill Matrix

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RECOMMENDATION

Information only

EXECUTIVE SUMMARY

State Update
Attached are the State legislative update (Attachment 1) and the State Bill Matrix (Attachment 2).

Governor Newsom has appointed Toks Omishakin as the new Caltrans director. Omishakin is from Nashville, TN and has served as the deputy commissioner for environmental and planning at the Tennessee Department of Transportation since 2011. He was also the director of Healthy Living Initiatives in the Nashville Mayor's office from 2008 to 2011. Omishakin has a Master of Arts degree in urban and regional planning from Jackson State University. Omishakin's appointment must be confirmed by the senate.

Governor Newsom has also appointed Jim Davis as Caltrans' Chief Deputy. Davis has been special advisor to the director of Caltrans since 2019. He's held other positions in the department including Senate Bill 1 program manager, District 4 (Bay Area) acting director in 2018, division chief of project management from 2013 to 2019, as well as other engineering positions in the department. This position does not need Senate confirmation.

Federal Update
The Senate Environment and Public Works (EPW) Committee passed the America's Transportation Infrastructure Act of 2019 (ATIA), which is a five-year $287 billion reauthorization of the Fixing America's Surface Transportation (FAST). A summary of

the senate bill is included as Attachment 3. The Senate bill retains many of the programs in the FAST Act and adds other programs, such as a Bridge Investment Program with proposed funding levels of $1.2 to $1.4 billion per year. The act focuses on safety and would increase the highway safety program to $2.6 billion which is 8 percent over existing funding. The EPW does not oversee transit - that is addressed by the Senate Banking, Housing, and Urban Affairs Committee (specifically the sub-committee on Housing, Transportation, and Community Development) which has not to date released a reauthorization proposal.

PROCEDURAL REQUIREMENTS

1. Staff Report
2. Public Comments

FISCAL IMPACT

Is there a Fiscal Impact? No

SUPPORTING DOCUMENTS

Attachments: (1) August 30, 2019 State Legislative Update (Platinum Advisors)
(2) August 30, 2019 State Bill Matrix (Platinum Advisors)
(3) America's Transportation Infrastructure Act of 2019 – Draft MTC Staff Summary: August 22, 2019

August 30, 2019

TO: Kate Miller, Executive Director
Napa Valley Transportation Authority

FR: Steve Wallauch
Platinum Advisors

RE: Legislative Update

End of Session: The Legislature returned on August 12th from summer recess for the remaining five weeks of session. They have until September 13th to move legislation to the Governor. Bills that do not reach the Governor's desk will still have the opportunity to be addressed next year. About 870 total bills will be considered by the fiscal committees by the end of August, and most of these bills are on the respective Suspense Files that will be sorted out on Friday, August 30th. After fiscal bills are dispensed with, the remaining two weeks of the legislative year will be focused on floor session.

Legislators, staff, and lobbyists are primarily focusing on amendments, fiscal committees, and working with the Administration to ensure that once bills reach them, they will be as non-controversial as possible. High profile issues left to be determined include a firearm excise tax, gig economy worker's rights, oversight of medical exemptions for vaccinations, and a possible PG&E securitization measure to assist them in paying off debt.

Clean Trucks: The California Air Resources Board (CARB) started the process of developing regulations to transition medium and heavy-duty trucks to zero emission technologies. However, the scope of this undertaking is broader than anticipated. As expected, the new regulation would place zero emission vehicle production requirements on truck manufacturers, but it would also impose reporting requirements on private and government agencies, including state, local and federal entities. The reporting element seeks to gather information on the size and usage of public and private fleets, and the operating characteristics of the truck facilities. This information would be used to guide CARB on the development of future regulations. These future regulations will likely target the transition of fleets operating in urban areas to zero emission fleets.

Draft language on the reporting requirements was released at a workshop on August 21st. CARB is seeking comments on the proposed reporting requirements as well as the manufacturer requirements. The deadline to submit comments is September 21st. The formal regulatory process will commence in October with the release of the staff report and the first hearing before the CARB Board is expected in December. Adoption of the regulation is anticipated to occur in mid-2020. The reporting requirement language can be found at https://ww2.arb.ca.gov/sites/default/files/2019-08/190821draftregle_0.pdf

Excess State Land for Affordable Housing: In January, Governor Gavin Newsom signed Executive Order N-06-19 *(link below)* ordering the state Department of General Services (DGS) to create an inventory of excess state lands and collaborate with the Department of Housing and Community Development (HCD) and the Housing Finance Agency to determine whether those excess state lands could be utilized for affordable housing. The Senate Governmental Organization Committee held an informational hearing August 13th to provide an update on the Executive Order. The first panel included representatives from DGS and HCD to describe the process they used to determine which parcels were available and how the number of parcels were narrowed by screening for availability, utilization, viability, and economic stability, among other factors. The departments examined 44,370 parcels, determined that 1,300 could be appropriate for housing, segmented 550 parcels into sites, and narrowed those sites to 100 that they may recommend be utilized for housing.

DGS released on August 27th an interactive map *(link below)* illustrating where the potential development sites are located. There are two large parcels identified in Napa County as potential housing sites. This includes a 20-acre parcel on Imola Avenue at Skyline Park, and a 19-acre parcel at the Veterans Home facility in Yountville. In September, DGS and HCD are expected to begin releasing request for proposals for developing these sites. In exchange for building affordable housing on these sites, the state would provide long term reduced cost leases to the developers.

Also, at the Senate hearing a second panel included the Mayor of Yountville on behalf of cities, Housing California, and the Non-Profit Housing Association of Northern California. All three representatives expressed support for the governor's executive order and emphasized the importance of additional housing development. Legislators were generally appreciative of the update provided by the departments as well as the feedback from stakeholders. They will likely engage further when the report is released, and they will pinpoint land within their districts that is recommended for development. The comments made by legislators encouraged the state to do a market analysis, involve local governments in the process, and consider ways to avoid public disapproval of housing projects. Senator Steve Bradford (D-Gardena) clarified that the State is approaching this project from the perspective of building permanent housing such as apartments or permanent supportive housing, not temporary shelters for the homeless.

Residential Impact Fees: Earlier this month, a report *(link below)* was issued by the Terner Center in conjunction with the California Department of Housing and Community Development (HCD) as required by AB 879 (Grayson, 2017) *(link below)*. Among changes to housing element law, AB 879 directed HCD to complete a study evaluating the reasonableness of local fees charged to new developments. In response to the release of the report, Assembly member Tim Grayson (D-Concord) is considering legislation in the last few weeks of session addressing some of the recommendations.

This is especially notable with Governor Gavin Newsom's focus on housing development and recent referral to local development fees as "usurious."

The report, "Residential Impact Fees in California: Current Practices and Policy Considerations to Improve Implementation of Fees Governed by the Mitigation Fee Act," analyzes the use of residential impact fees regulated by the Mitigation Fee Act. Broken up into four primary issues – fee transparency, fee structure, fee design process, and alternative funding options, the report provides analysis of the current fees and suggests potential reforms. Development fees that are not under the Mitigation Fee Act were not analyzed, although the Legislature will likely examine them in their push to build additional affordable housing.

Legislation:

Local Partnership: SB 277 (Beall) would require 85% of SB 1 Local Partnership Program (LPP) funds to be allocated by formula, and 15% for a small county competitive program. Under current California Transportation Commission (CTC) guidelines, half the LPP funds are allocated by formula and half are reserved for a competitive program. Current law provides the CTC administrative control over LPP funds.

Given that this measure would limit the CTC's administrative control over the LPP, it is not without controversy. Recently the Carpenters Union has expressed concerns with the bill, and the Department of Finance (DOF) has adopted an oppose position. The DOF analysis states, "This bill circumvents the Commission's guideline development process, a public process through which the Commission solicits stakeholder input on proposed program guidelines and adopts the guidelines that most effectively implement the program." SB 277 is currently on the Assembly Appropriations Suspense File. SB 277 was approved with amendments at the August 30th Suspense File hearing. Information on the amendments is provided on the Bill Matrix.

Complete Streets: SB 127 is moving forward, but Caltrans has raised red flags about the potential cost. In short, SB 127 would require Caltrans to include complete street elements, such as bicycle, pedestrian and transit user safety elements, in the State Highway Operation and Protection Program (SHOPP) for projects on state highways that serve as "Main Streets." SB 127 does not apply to freeways or other restricted access roads, and the bill includes a process to exempt any state highway segment from the complete streets requirement.

Caltrans has recently announced that complying with the provisions of SB 127 would cost $1 billion annually, or about $4.5 million per center lane mile. Senator Wiener has forcefully objected to the exaggerated $1 billion estimate, and has sent a letter to CalSTA Secretary Kim questioning the credibility of the agency. SB 127 is currently on the Assembly Appropriations Suspense File. While amendments will be made to reduce the cost of the bill, the Appropriations Committee Chair, Assemblywoman Lorena Gonzalez, has already expressed her support for the bill. SB 127 was approved with amendments at the August 30th Suspense File hearing.

Feeder Buses: In general, SB 742 (Allen) would allow feeder bus operators to provide open door service that would not be limited to rail passengers if specified conditions are met. The bill would require a joint powers agency (JPA) that operates intercity passenger rail service, such as Capital Corridors, to conduct the following prior to entering into a contract with a private motor carrier to provide feeder bus service:

- Consult with and consider relevant public transit operators to determine if an operator can provide the planned service and to avoid conflicts with existing public transit service;
- Make a good faith effort to coordinate with private motor carrier services, such as Greyhound, to provide timely connections with intercity rail services, including through agreements to fund modifications or expansion of service to better coordinate with existing rail service; and
- Document the differences between the proposed motor carrier service and existing service in communities served, including time of day.
- Requires the JPA to document these efforts and present them at a public meeting of the JPA for public comment.
- Requires the JPA, if it contracts for service with a private motor carrier to submit a report to the Legislature on or before January 1, 2023.

SB 742 also authorizes state agencies and departments, public and private transit operators, intercity motor carriers of passengers, Amtrak, and the JPAs to enter into revenue sharing and ticket selling agreements with each other to provide intercity transportation and connections at rail stations to and from local transit systems and intermodal and intercity motor carrier terminals.

Links:

Executive Order N-06-19:

https://www.gov.ca.gov/wp-content/uploads/2019/01/EO-N-06-19.pdf

Interactive Map

https://cadgs.maps.arcgis.com/apps/webappviewer/index.html?id=392e5e687e9041bb8f20e3acc5b211c7

Residential Impact Fees report
http://ternercenter.berkeley.edu/uploads/Residential_Impact_Fees_in_California_August_2019.pdf

AB 879 (Grayson, 2017)
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB879

PLATINUM ADVISORS

August 30, 2019

Existing Positions

Bills	Subject	Status	Client - Position
AB 11 **(Chiu D)** Community Redevelopment Law of 2019.	AB 11 would enact the Community Redevelopment Act of 2019 and allow local governments to form a housing and infrastructure agency that would focus on affordable housing and infrastructure investments. The bill requires a seat on the governing board for each affected taxing entity, and it allows an affected taxing entity to elect to contribute to the redevelopment agency (RDA) or not. In addition, the bill also allows an RDA to capture the growth on the schools' share (i.e. Educational Revenue Augmentation Fund [ERAF]) of the property tax growth. AB 11 does require any new RDA to be approved by the Strategic Growth Council, which must find that the redevelopment plan furthers greenhouse gas (GHG) reduction goals and the fiscal impact to the state for backfilling the lost ERAF growth does not exceed a yet to be specified amount. The new RDA could finance housing, transit, transit priority projects, interchanges, bridges, parks and port infrastructure, to name a few. The projects do not need to be located within the redevelopment area, but must have a nexus to the project area.	ASSEMBLY APPR – Held on Suspense Two-Year Bill	WATCH
AB 147 **(Burke D)** Use taxes: collection: retailer engaged in business in this state.	AB 147 was signed into law, and took effect immediately. This bill enacts changes to implement the South Dakota v. Wayfair decision. Under Wayfair, the U.S. Supreme Court found that online retailers are required to collect and remit sales tax regardless of whether the online retailer	Signed Into Law Chapter #5, Statutes of 2019	SUPPORT

<u>AB 147</u> **(<u>Burke</u> D)** ***(Continued)***	has a physical presence in the state where the order is delivered. AB 147 imposes a $500,000 statewide threshold. State and local sales taxes would both be collected once a statewide total of $500,000 in sales is reached. This bill would also require sales tax to be collected on all sales made through an intermediary, such as eBay or Amazon. Under AB 147 an entity that sells items through a "marketplace facilitator," such as eBay, the marketplace facilitator is required to collect and remit the tax on all sales regardless of the threshold. The local sales tax revenue would be allocated to the local tax districts.		
<u>AB 252</u> **<u>(Daly D)</u>** Department of Transportation: environmental review process: federal program.	AB 252 repeals the sunset date on current law that delegates to Caltrans the authority for National Environmental Policy Act (NEPA) decision making. The existing NEPA Assignment Program authority would sunset on January 1, 2020. This program started as part of a pilot program under federal Safe, Accountable, Flexible, and Efficient Transportation Equity Act-A Legacy for Users (SAFETEA-LU) legislation and has been extended twice so far. AB 252 would make it a permanent program. The NEPA Assignment Program has streamlined the environmental process for both state and local transportation projects without compromising compliance with environmental laws and regulations.	Signed Into Law – Chapter 160, Statutes of 2019	SUPPORT
<u>AB 285</u> **(<u>Friedman</u> D)** California Transportation Plan.	AB 285 updates requirements of the California Transportation Plan (CTP) to reflect the state's recent environmental legislation. In particular, the bill requires Caltrans to include in the CTP the following: • An overview of all sustainable communities and an assessment of how implementation of these strategies will influence the	SENATE APPR – SUSPENSE FILE – Approved with Amendments	WATCH

AB 285 (Friedman D) ***(Continued)***	configuration of the statewide integrated multimodal transportation system. • A review of the potential impacts and opportunities for coordination of specified transportation grant programs, such as the Low Carbon Transit Operators Program and the Transit and Intercity Rail Program. • A forecast of the impacts of advanced and emerging technologies, including shared, autonomous, connected, and electric transportation options, over a 20-year horizon on infrastructure, access, and transportation systems.		
AB 314 (Bonta D) Public employment: labor relations: release time.	This bill would consolidate and uniformly apply existing laws to grant reasonable time-off with compensation for public employees for activities related to employee-employer relations. Existing law on release time does not cover public transit employees, but AB 314 would expand these release time provisions to include public transit employees. The bill would require a public employer to grant reasonable time off for employee representatives to testify at hearings before the personnel boards, participate in labor/management committees, investigate grievances, or participate at new employee orientations.	SENATE APPR – SUSPENSE FILE -- Approved	WATCH
AB 659 (Mullin D) Transportation: emerging transportation technologies: California Smart City Challenge Grant Program.	AB 659 requires the California Transportation Commission (CTC) to form a working group, consisting of local governments and transportation entities that would develop the guidelines and selection criteria for the Smart City Challenge Grants. The bill envisions funding projects that use intelligent transportation systems and applications that would reduce congestion, enhance mobility, safety, and spurring innovation.	ASSEMBLY APPR – Held on Suspense Two-Year Bill	WATCH

AB 659 (Mullin D) ***(Continued)***	The bill does not currently identify or appropriate funds for this program.		
AB 752 (Gabriel D) Public transit: transit centers: lactation rooms.	AB 752 was substantially amended to clarify its application to multimodal transit facilities. As amended, the bill lists existing intercity rail stations, as well as the Sales Force Transit Center and the Anaheim Regional Transportation Intermodal Center. It would also apply to any intercity rail station, or station proposed to be served by high-speed rail with an enclosed lobby of 5,000 square feet or more. The bill would require these multimodal transit stations that commence operations or a renovation on or after January 1, 2021, to include a lactation room.	SENATE APPR – SUSPENSE FILE -- Approved	WATCH
AB 784 (Mullin D) Sales and use taxes: exemption: California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project: transit bus vehicles.	AB 784 was approved by the Senate Governance & Finance Committee on a 6-0 vote. This bill would exempt medium and heavy duty zero emission transit vehicles from the state's sales tax. Locally imposed sales taxes would still apply, as well as specified statewide taxes. Specifically, AB 784 would exempt from the state sales tax any zero-emission technology medium or heavy-duty transit bus vehicle that is eligible for a rebate from the Hybrid and Zero Emission Truck and Bus Voucher Incentive Program (HVIP). This sales tax exemption would sunset on January 1, 2024.	SENATE APPR – SUSPENSE FILE – Approved with clarifying amendments	SUPPORT
AB 847 (Grayson D) Transportation finance: priorities: housing.	As introduced, AB 847 would create a funding incentive for cities and counties to produce housing by reallocating non-Article 19 transportation funds and provide bonuses for certain funding programs. However, the bill was gutted and amended to now create a new competitive grant program. This bill does not provide a funding source, but it directs the	ASSEMBLY H & C. D. – Two-Year Bill	WATCH

AB 847 (Grayson D) ***(Continued)***	Department of Housing and Community Development to create a grant program that would offset up to 100% of any local transportation impact fees imposed on housing project that includes at least 20% affordable units.		
AB 1350 (Gonzalez D) Youth Transit Pass Pilot Program.	AB 1350 would create the Youth Transit Pass Pilot Program. This bill is similar to prior efforts to create a funding program to provide free transit passes to persons under 25 years old. AB 1350 does not include an appropriation, but points to a future appropriation of greenhouse gas reduction funds. The bill directs Caltrans to create the program that would allocate grants to eligible entities. The grants would be capped at $5 million and be no smaller than $20,000. This bill might be a little premature. UCLA is currently undertaking a study to examine and summarize the various types of student transit pass programs in California. As you may recall, former Governor Brown vetoed a similar bill because of the need for additional information on existing programs. The UCLA study is not expected to be completed until the end of this year.	ASSEMBLY TRANS. – Two-Year Bill	WATCH
AB 1402 (Petrie-Norris D) Active Transportation Program.	AB 1402 was not heard in the Assembly Committee on Transportation and is now a two-year bill. This bill would revise the allocation process for Active Transportation Funds. AB 1402 is substantively similar to the changes made to the Active Transportation Program (ATP) in SB 152 (Beall), but the bills are structured a little differently.	ASSEMBLY TRANS. Two-Year Bill	SUPPORT
AB 1568 (McCarty D) General plans:	AB 1568 was held by the Appropriations Committee and is now a 2-year bill.	ASSEMBLY APPR – Held on Suspense	OPPOSE

housing element: production report: withholding of transportation funds **AB 1568 (McCarty D)** ***(Continued)***	This bill would, if on or before January 1, 2025, a city or county is found to be out of compliance with existing housing element requirements then that city or county would be prohibited from applying for state grants. This prohibition would not apply to grants protected under Article 19 of the Constitution, which covers most transportation funds, or if the grant would assist the city or county in complying with housing element laws. As introduced, this bill would have withheld SB 1 local streets and roads funds from a city or county that is found to be out of compliance with existing housing element laws.	Two-Year Bill	
AB 1633 (Grayson D) Regional transportation plans: traffic signal optimization plans.	AB 1633 would authorize any city within the Metropolitan Transportation Commission (MTC) region to develop and implement a traffic signal optimization plan intended to reduce GHG emissions and particulate emissions and to reduce travel times. The bill would also require signals that are operated by Caltrans to be adjusted and operated consistent with a city's plan.	SENATE FLOOR	WATCH
ACA 1 (Aguiar-Curry D) Local government financing: affordable housing and public infrastructure: voter approval.	ACA 1 failed passage on the Assembly Floor. Reconsideration was granted, and another attempt is possible, but the measure was 8 votes short of the 54 needed for passage. A few Democrat members voted No, and several others abstained. Given the stigma that this measure erodes Prop 13 protections makes it unlikely it will secure the needed support to move to the Senate. ACA 1 would lower the voter threshold for property tax increases, parcel taxes and sales taxes to 55% if the funds are used for affordable housing and infrastructure projects. This includes capital improvements to transit and streets and highways.	ASSEMBLY FLOOR Failed Passage – Reconsideration Granted	SUPPORT

ACA 1 (Aguiar-Curry D) ***(Continued)***	However, ACA 1 does not allow for the 55% local measure to use the tax revenue for transit operations.		
SB 5 (Beall D) Local-State Sustainable Investment Incentive Program.	SB 5 creates the Affordable Housing and Community Development Investment Program (Program), which would allow an Enhanced Infrastructure Finance District (EIFD) the authority to divert a portion of the ERAF property tax share to the EIFD. SB 5 would require any EIFD that wants to capture the ERAF share to apply to the Sustainable Investment Incentive Committee, which SB 5 creates. The bill would limit the amount of ERAF tax revenue the Committee can approve to $200 million each year, with the annual impact not to exceed $1 billion. These limits are increased in future years. SB 5 generally promotes the construction of housing and infill development that promotes transit use.	ASSEMBLY APPR – SUSPENSE FILE -- Approved	SUPPORT
SB 20 (Dodd D) Surplus state property: Napa County Regional Park and Open Space District.	SB 20 extends the sunset date, which expired on January 1, 2015, to January 1, 2026, for the state to sell the area known as the Skyline Wilderness Park (Skyline Park) in the County of Napa. The bill also revises the current authorization for the state to sell the Skyline Park to also include the Napa County Regional Park and Open Space District in addition to the County of Napa.	Governor’s Desk	WATCH
SB 50 (Wiener D) Planning and zoning: housing development: equitable communities incentive.	SB 50 would require local governments to provide a specified “equitable communities incentive” to developers that construct residential developments in “jobs-rich” and “transit-rich” areas, which may include certain exceptions to specified requirements for zoning, density, parking, height restrictions, and floor area ratios.	SENATE APPR – Held on Suspense Two-Year Bill	WATCH

SB 127 (Wiener D) Transportation funding: active transportation: complete streets	SB 127 (Wiener) was approved by the Senate. This bill aims to update existing laws relating to the programing of funds in the State Highway Operation and Protection Program (SHOPP) to require the state to consider and invest in bicycle, pedestrian, and transit facilities when programing SHOPP projects. The bill would focus these complete street investments on urban arterials and where a state highway serves as the main street.	ASSEMBLY APPR – SUSPENSE FILE – Approved with Amendments	WATCH
SB 137 (Dodd D) Federal transportation funds: state exchange programs.	SB 137 would allow any city or county to swap federal transportation funds for state funds. The current exchange program is limited to regional transportation planning agencies with a population below 200,000. This measure is sponsored by California State Association of Counties (CSAC), and it is aimed at streamlining project delivery by removing the federal review process associated with using federal funds. With the additional SB 1 funds in state accounts, the resources should be enough to allow interested cities and counties to exchange federal funds for state dollars, thus eliminating the need to complete both NEPA and California Environmental Quality Act (CEQA) reviews.	ASSEMBLY APPR – SUSPENSE FILE -- Approved	SUPPORT
SB 152 (Beall D) Active Transportation Program.	This bill would implement some of the findings made by the Legislative Analyst's Office (LAO) regarding the administration of the ATP. The goal is to streamline the administrative process for awarding ATP funds. The bill includes the following changes: • Modified the distribution formula to increase from 40% to 75% that is allocated to metropolitan planning organizations (MPO), increase the rural county share from 10% to 15%, and reduce the statewide pot that is administered by the CTC from 50% to 10%.	SENATE APPR – Held on Suspense Two-Year Bill	SUPPORT

SB 152 **(Beall D)** ***(Continued)***	• Shift greater administrative control for the regional share to the MPOs. • Increase reporting requirements from the MPOs to the CTC.		
SB 235 **(Dodd D)** Planning and zoning: housing production report: regional housing need allocation	SB 235 allows the City of Napa and County of Napa to reach an agreement under which the county would be allowed to count certain housing units built within the city toward the county's regional housing needs assessment (RHNA) requirement. The Napa Pipe project is the genesis for this bill.	ASSEMBLY FLOOR	SUPPORT
SB 277 **(Beall D)** Road Maintenance and Rehabilitation Program: guidelines.	SB 277 would amend existing law to require 85% of SB 1 Local Partnership Program (LPP) funds be allocated by formula, and 15% for a small county competitive program. Under current CTC guidelines, half the LPP funds are allocated by formula and half are reserved for a competitive program. Current law provides the CTC administrative control over LPP funds. Starting with Cycle 3 of the LPP, SB 277 directs the CTC to adopt guidelines and implement the apportionment formula specified in the bill as follows: • 15% of LPP funds are set aside in the Small Counties and Uniform Developer Fees Competitive Subaccount. This competitive program is for eligible entities located in a county with a population of less than 750,000, or entities that administer a voter approved uniform developer fee. • 85% of LPP funds would be allocated to the Local Partnership Formula Subaccount. The funds would be split into a southern and northern California pots. The north-south split would be based on the proportional share of the statewide total of voter approved sales tax, parcel/property tax and toll revenue.	ASSEMBLY APPR – SUSPENSE FILE – Approved with Amendments	SUPPORT

SB 277 **(Beall D)** ***(Continued)***	The north-south categories are based on the State Transportation Improvement Program (STIP) definition where all counties from Kern and San Luis Obispo Counties south are in the southern group, and all remaining counties are in the northern group. • The southern allocation formula distributes the funds to eligible entities with 75% of the funds allocated based on its proportional share of the southern population, and 25% distributed based on the entity's proportional share of voter approved transportation sales tax revenue. • The northern allocation formula distributes the funds to eligible entities through two pots. Of the total amount of revenue in the northern share, eligible entities that administer voter approved bridge tolls and parcel/property taxes shall receive its proportional share of the northern fund. For eligible entities that administer a voter-approved sales tax, these entities' proportional share is based on 75% of the entities' proportion of the northern population and 25% based on the entity's proportional share of sales tax revenue. •		
SB 336 **(Dodd D)** Transportation: fully automated transit vehicles.	SB 336 aims to address safety and customer service issues by requiring at least one public transit employee to be present on any fully automated transit vehicle. The public transit employee shall be trained in passenger safety, communications, emergency preparedness, and assisting the disabled and elderly. SB 336 would also require any transit operator that deploys an autonomous vehicle to submit a report to the legislature	ASSEMBLY TRANSP – Two-Year Bill	SUPPORT

SB 336 (Dodd D) ***(Continued)***	on that deployment by March 31st, 2025. SB 336 would sunset on January 1, 2025.		
SB 397 (Glazer D) Public transit operators: passengers with pets: evacuation orders.	As recently amended SB 397 would require the Office of Emergency Services and the Department of Food & Agriculture, in consultation with public transit operators and county emergency management officials, to develop best practices for allowing pets on public transit vehicles when serving evacuation areas. The bill previously directed each transit operator to develop best practices for allowing pets on public transit vehicles serving evacuation areas. The bill limits pets to cats or dogs.	ASSEMBLY FLOOR	SUPPORT

America's Transportation Infrastructure Act of 2019
DRAFT MTC Staff Summary: August 22, 2019

On July 30, 2019, the Senate Environment and Public Works (EPW) Committee passed the America's Transportation Infrastructure Act of 2019 (ATIA), a five-year, $287 billion highway transportation reauthorization proposal. Importantly, the bill retains the existing Fixing America's Surface Transportation (FAST) Act-authorized program structure, allocating nearly 90 percent of the funding through the five core highway programs. As advocated by MTC, the bill includes a new focus on climate change, explicitly making resiliency activities eligible within core highway programs and creating several new small programs focused on improving resiliency, reducing congestion in major metropolitan areas and upgrading infrastructure along designated alternative fuel corridors to support clean vehicle technologies. It also creates additional new programs focused on bridges and safety for vulnerable road users. The bill takes steps to support regional funding, planning and decision-making, including through directing a modest amount of new funding to large metros, and incentivizing regional safety and resiliency planning with increased funding flexibility. The bill retains the performance-based planning approach authorized in 2012 and, for the first time, links performance to funding by rewarding regions and states that make progress toward federal safety and climate goals with access to $200 million in performance-based grants.

Of note, the other Congressional committees responsible for crafting a surface transportation reauthorization policy (including the transit title) are proceeding at a slower pace and none have begun to identify a way to pay for a major infrastructure bill. So there is a long way to go before a FAST Act reauthorization is enacted.

Below is a topline summary of ATIA.

Key Features of ATIA

- Funds highway programs at $287 billion over five years – a 27 percent overall increase over existing funding levels, starting with a 17 percent increase over fiscal year (FY) 2020. Of this total amount, 90 percent is allocated via formula, with the vast majority directed to existing FAST Act programs. The FAST Act rescission is repealed. Congress must identify $84 billion on top of anticipated Highway Trust Fund (HTF) revenues to fund just this highway title increase. The total price tag for a five-year, 27 percent growth bill is approximately $387 billion. (Note that funding numbers reflect HTF contract authority; ATIA authorizes an additional $6.7 billion over five years, subject to annual appropriations).
- FAST Act core highway programs increase 10 percent in ATIA's first year (FY 2021); the National Highway Performance Program (NHPP) receives a 12 percent bump and the other core programs, including Surface Transportation Block Grant (STP) and Congestion Mitigation and Air Quality Improvement (CMAQ), grow by 8 percent. The bill authorizes nearly $3 billion annually in discretionary programs related to goods movement (INFRA), bridge repair, and climate change mitigation and adaptation.
- In FY 2021, California would receive nearly $4.7 billion, a $600 million increase from FY 2020 funding levels. The Bay Area's share of flexible highway formula dollars would be $211 million in FY 2021, a 16 percent increase over FY 2020. Most of these funds would be allocated to the existing STP and CMAQ programs, but $13 million would be suballocated to MTC through new safety and carbon reduction formula programs. See Attachment A for a funding chart.
- ATIA creates a number of new small programs, including a $1.2 billion bridge competitive program, new safety programs for vulnerable road users (formula and discretionary components) and a climate change subtitle funded at approximately $2 billion annually. Climate-focused programs include a $1

billion resiliency program (formula and discretionary), a $600 million carbon reduction formula program (65 percent population-based suballocation) and a new flexible congestion relief discretionary program for urbanized areas with populations over 1 million ($40 million annually; $10 million minimum grant size). The bill also explicitly makes resiliency improvement eligible under several core highway programs.

<u>Highway Program Summaries</u>

Metropolitan Planning

Metropolitan Planning funding would increase 8 percent in FY 2021 to $386 million and flexibility is retained for metropolitan planning organizations (MPOs), such as MTC, to continue to experiment with planning for uncertainties without adding any new, prescriptive planning requirements. Additionally:

- The MPO coordination rule is back in a muted form; the bill changes the requirement that MPOs coordinate plans and transportation improvement programs (TIPs) when they share overlapping "urbanized areas" (as opposed to metropolitan areas) and requires that MPOs with overlapping urbanized areas "ensure, to the maximum extent practicable, the consistency of any data used in the planning process, including information used in forecasting travel demand." There is no requirement to jointly develop the long-range plan or the TIP, as had been proposed in a prior rule initiated by the Obama Administration. The bill also provides that more than one MPO may be designated within one urbanized area (instead of an "existing planning area") only if the Governor and existing MPO determine that multiple designations are appropriate.
- "Outer years" of a long-range plan are redefined as beyond the first four years (as opposed to beyond the first 10 years).
- The bill would establish two new planning-related pilot programs:
    1. Accessibility Data Pilot Program: Requires US Department of Transportation (USDOT) to provide data sets to states and MPOs to measure "accessibility," including access to jobs, heath care, or other destinations. The pilot would be funded through Office of the Secretary's administrative expenses.
    2. Prioritization Process Pilot Program: $10 million annually to pilot project-specific performance evaluation.
- States and MPOs would be newly required to use 2.5 percent of planning funds for Complete Streets-related activities. Activities that would meet this criterion include the development of plans and policies that improve active transportation, increase transit ridership, address travel demand through alternatives to new highway capacity, and/or support transit-oriented development.
- States and MPOs with low population densities may opt out of federal performance management requirements related to one or more of the following categories: 1) performance of the Interstate; 2) performance of the National Highway System; 3) traffic congestion; and 4) national freight movement.

Surface Transportation Block Grant Program (STP)

Though topline STP funding increases by 8 percent in year one, consistent with the other non-NHPP core formula programs, more than one-third of the STP increase is allocated to the Transportation Alternatives Program set-aside (TAP), which constitutes 7 percent of the current program. As a result, the base STP program only grows by $671 million in FY 2021, 6 percent above FY 2020 funding levels, while TAP grows by $350 million or 41 percent. Suballocation of STP funds to regions based on their relative share of the state's population (increasing the share of which has been a longstanding MTC priority) would remain constant at 55 percent, except for TAP which would be suballocated at 57.5 percent. The bill also increases flexibility to explicitly allow STP funds to be used for resiliency improvements, privately-owned ferries, wildlife crossings, low water crossings and rural water infrastructure projects.

Transportation Alternatives Program (TAP)
As noted above, the TAP set-aside grows substantially, jumping 41 percent to $1.2 billion in year one of the bill and the regional share of suballocated TAP funds would increase from 50 percent to 57.5 percent. States also would have the option to pass through 100 percent of the suballocated TAP funds directly to counties. The proposal also explicitly authorizes up to 100 percent federal share for TAP projects, subject to certain conditions. ATIA newly allows highway safety improvement (HSIP) funds to count towards local match for bike/ped projects and recodifies the allowance for the federal share for an individual TAP project to be 100 percent so long as statewide, the federal share for all TAP projects is not more than 80 percent. Additionally, the scope of the Safe Routes to School Program is expanded to include high schools.

Congestion Mitigation and Air Quality Improvement Program (CMAQ)
CMAQ funding grows to $2.7 billion in FY 2021, an 8 percent increase from FY 2020 levels. As is the case under the FAST Act, California would continue to receive approximately 20 percent of the nation's CMAQ funding. The bill expands program eligibility to include certain water freight projects and removes the operating assistance time limitation for transit systems in urbanized areas with a population of 200,000 or fewer.

National Highway Performance Program (NHPP)
NHPP grows 12 percent in year one to $27 billion. Up to 15 percent of NHPP funds may be used on resiliency improvements (i.e. "protective features") to mitigate the risk of recurring damage or the cost of future repair from extreme weather events, flooding or other natural disasters. Examples range from raising bridges, upgrading culverts and relocating roadways to deepening channels, maintaining tide gates and the use of natural infrastructure to mitigate the risk of recurring damage or the cost of future repair from extreme weather events, flooding or other natural disasters. Protective features are eligible for 100 percent federal share.

Bridge Investment Program
ATIA funds a new discretionary bridge program to address the backlog of bridges in poor condition. Eligible projects include protecting, rehabilitating, preserving or replacing one or more bridges on the National Bridge Inventory (includes bridges on and off Federal-aid highways). The program is funded at $1.2 billion in FY 2021 and grows to $1.4 billion by FY 2025, though half of this funding is subject to annual appropriations. Not less than 50 percent of the program is reserved to fund bridge improvements with a total project cost greater than $100 million.

Safety (Highway Safety Improvement Program (HSIP) and New Safety Programs)
The bill increases HSIP funding to $2.6 billion in FY 2021, 8 percent above FY 2020, and restores flexibility to spend up to 25 percent of HSIP on non-infrastructure safety projects, such as educational campaigns. ATIA provides $500 million annually to a new safety formula program targeted at improving safety for vulnerable road users and a $100 million discretionary fatality reduction program.

- Formula: Each state receives shares of the $500 million safety incentive funds in proportion to that state's share of national highway formula funds (base apportionments). In California's case, the state would receive approximately 9 percent of the national program. Of that, 65 percent would be suballocated to the Bay Area and other regions based on population. We estimate the Bay Area would receive approximately $6 million from this program in FY 2021.

Program funding is flexible. In general, states and MPOs may use funding for any highway safety improvement project or program. However, states and regions with high rates of nonmotorized user injuries and fatalities are required to target 50 percent of program funds toward bike/ped safety improvements. On the flip side, states and regions that integrate a detailed vulnerable road user safety assessment into a long-range plan would be rewarded with additional flexibility to spend the safety program money on any STP-eligible project.

- Discretionary: A new merit-based safety performance program provides flexible grants to states and local governments that are either meeting their federal safety performance targets or are demonstrating that safety is improving (per capita serious injuries and fatalities are declining). Grant awards range from $5 million to $30 million and may be used for any Title 23-eligible project or for highway maintenance at 100 percent federal share.

Additionally, ATIA maintains current funding levels at $245 million per year for the formula Railway-Highway Crossings Program (Section 130), a set-aside within HSIP. The bill removes the requirement for a state to spend at least 50 percent of program funding on protective devices, broadens eligibility to include any project that reduces pedestrian fatalities and injuries from trespassing at grade crossings, and increases the federal share from 90 percent to 100 percent.

Freight (National Highway Freight Program and INFRA)

National highway freight program funding increases 8 percent in FY 2021 to $1.6 billion and the INFRA discretionary program grows to $1.05 billion, a $50 million increase from FY 2020. The bill increases support for multimodal/intermodal projects by expanding program eligibility to include certain water freight projects and increasing the cap on non-highway projects that could be funded from both the freight formula program and INFRA to 30 percent. The bill creates within INFRA a $150 million "incentive" pilot that would prioritize projects with high local matches and adds grant administration transparency requirements. The bill adds to INFRA a consideration for freight resiliency and requires a new sustainability/resiliency focus in state freight plans.

Climate Change and Resiliency

In addition to the programmatic changes detailed above, ATIA provides approximately $2 billion annually in new formula and discretionary funding for climate change and resiliency improvements allocated through several new programs, as described below:

- **PROTECT Grant Program**: Nearly $1 billion annually for resilience investments; $786 million formula and $200 million in discretionary planning and implementation grants.

    Formula: States receive formula funding in proportion to the state's share of the national highway program base apportionments. Project eligibility is broad and includes any surface transportation project (highway, bridge, transit, intercity rail and ports) that hardens infrastructure or improves disaster response; additional project elements functionally connected to a transportation improvement (e.g.: improving marsh health or installing tide gates) would be eligible.

    - Discretionary: MPOs, locals, transit agencies and states may apply for the $200 million discretionary PROTECT Grant program. $20 million is reserved for planning grants to prepare vulnerability assessments, build technical capacity, prepare evacuation plans, and support MPOs and states in developing "resilience improvement plans," which are detailed in the bill. Development and incorporation of such plans into long-range plans results in up to a 10 percent reduction in local match requirements.

Implementation grants may fund one or more construction activities to harden surface transportation infrastructure and will be awarded in three buckets: 1) resilience improvement grants; 2) community resilience and evacuation route grants (including installation of communications and ITS infrastructure); and 3) at-risk coastal infrastructure (highway and non-rail infrastructure). Priority will be given to cost-efficient resiliency projects addressing high-risk asset vulnerabilities that are included in a resilience improvement plan.

- **Carbon reduction programs:** $700 million; $600 million formula and $100 million discretionary.
  - Formula: Each state receives shares of the $600 million carbon reduction incentive funds in proportion to that state's share of national highway formula base apportionments. Of this, 65 percent would be suballocated based on population. We estimate the Bay Area would receive approximately $7 million from this program in FY 2021.

    Program eligibility is broad, including projects or programs that improve traffic management, traffic flow, shift travel demand to nonpeak hours or increase vehicle occupancy rates, diesel retrofits, clean vehicle charging infrastructure, transit and bike/ped projects, advanced transportation and congestion management technologies. The program includes a planning incentive similar to the incentive in the new safety formula program: States and regions that adopt a detailed carbon reduction strategy would be rewarded with additional flexibility to spend the program money on any STP-eligible project. The region's strategy would need to be incorporated into the long-range transportation plan.
  - Discretionary: Similar to the merit-based safety performance program, this new program makes available grants for high-performing states and locals. In this case, merit-based grants are reserved for states and local governments in states and regions that demonstrate progress toward reductions in transportation emissions (per capita allowance). Unlike the merit-based safety program, there is no direct link to federal performance targets, since the climate-related performance measure mandated by the Obama Administration was repealed in 2018. Grant awards would range from $5 million to $30 million and could be used for any Title 23-eligbile project at 100 percent federal share.
- **Congestion relief program:** $40 million discretionary program for urbanized areas with populations larger than 1 million to fund integrated congestion management, pricing strategies (including high-occupancy toll lanes and congestion pricing in up to 10 urbanized areas), operation of mobility services (commuter buses, on-demand microtransit, etc.), incentive programs to carpool or shift travel to non-peak periods and other congestion relief projects. The minimum grant award would be $10 million. Nationwide, there are 45 urbanized areas larger than 1 million in population that would be eligible to compete for this limited funding congestion relief program, including two in the Bay Area: San Francisco-Oakland and San Jose.
- **Charging and fueling infrastructure grants**: Discretionary grant program to fund deployment of alternative fuel charging infrastructure along designated alternative fuel corridors. Funding would begin at $100 million in FY 2021 and increase to $300 million in FY 2025, and could be used for charging station installation (including signage) and operations (five-year limit). The federal cost share for grant-funded charging or fueling infrastructure projects is 80 percent and,

somewhat unusually, the bill requires that private entities contracting with a grantee be required to fund the local match.

- **Clean ports:** Discretionary grant program to fund projects that reduce emissions at port facilities, including port electrification projects. Funding would begin at $60 million in FY 2021 and increase to $90 million in FY 2025.

ATIA also augments the Federal Highway Administration (FHWA) Emergency Relief (ER) program's definition of a natural disaster to include wildfire and sea level rise, and allows the use of ER program funds on "protective features" to improve resiliency (see NHPP summary).

Streamlining

ATIA codifies core elements of President Trump's One Federal Decision permit streamlining Executive Order, including consolidating all permitting decisions for major infrastructure projects into one single environmental document with a schedule set by the federal "lead" agency, setting a two-year goal for completion of environmental reviews, and establishing a 90-day timeline for related project authorizations. In addition, the bill provides project sponsors with the flexibility to apply the core elements of the One Federal Decision policy to highway projects that require an environmental assessment.

ATIA provides flexibility to USDOT during the environmental review process, allowing the agency to set a schedule for projects, and limiting extension requests by other cooperating federal agencies to only one year. In addition, the proposal requires the Secretary to provide to regulatory agencies a list of categorical exclusions applicable to highway projects and directs those agencies to publish a notice of proposed rulemaking to adopt relevant categorical exclusions within one year. Lastly, the bill requires USDOT to develop a simplified template for federal-state stewardship agreements and to remove approval requirements that aren't mandated by federal law from such agreements.

Other Items

- Tolling: The bill requires that new interstate tolling projects include discounts for high-occupancy vehicles, transit, and paratransit; ATIA also authorizes a new toll credit exchange pilot to evaluate the demand for a toll credit marketplace.
- Cybersecurity: The bill requires FHWA to 1) develop a tool to assist transportation authorities in identifying, detecting, protecting against, responding to, and recovering from cyber incidents; and 2) designate an office as a "cyber coordinator" for monitoring, alerting, and advising transportation authorities of cyber incidents.
- Ferries: ATIA Authorizes $440 million over five years for the FHWA ferry boat program, an increase of $60 million over FAST Act levels. The bill clarifies that the construction of ferry boats and terminals also includes the construction of maintenance facilities, and permits the use of program funds to procure non-ferry transit vehicles if the vehicles are used exclusively as part of an intermodal ferry trip.
- TIFIA: The bill retains TIFIA at FAST Act levels ($300 million annually) and updates the program, streamlining the application process and expanding program eligibility to include airport projects and additional transit-oriented development projects (economic and residential developments physically or functionally related to rail transit stations).

America's Transportation Infrastructure Investment Act (ATIA) vs. FAST Act Funding
$ in Millions
(authorization of Highway Trust Fund revenues, unless otherwise specified.)

	FAST Act (FY 2020)	**ATIA (FY 2021)**	**ATIA Total (5 years)**	**California/Bay Area FY 2021 Impact**
Federal Highway Formula Programs				
National Highway Performance Program	24,236	27,157	141,529	California would receive $2.3 billion. New flexibility to spend funding on resiliency improvements.
Surface Transportation Block Grant Program (STP)	11,287	11,958	62,319	California would receive $1 billion; the Bay Area's suballocated share would increase to $111 million from $105 million in FY 2020.
Transportation Alternatives Program (STP set-aside)	850	1,200	6,244	California's funding increases to $104 million; the share reserved for Bay Area projects would increase to $12 million from $7 million in FY 2020.
Highway Safety Improvement Program	2,407	2,608	13,376	California would receive $229 million.
Congestion Mitigation and Air Quality Improvement Program (CMAQ)	2,499	2,688	13,676	California retains 20 percent of the federal program share, or $537 million in FY 2021. Of this, the Bay Area would receive $75 million.
National Freight Program	1,487	1,611	8,428	California's funding increases to $150 million.
Metropolitan Planning	359	386	2,011	California's funding increases to $58 million from $54 million in FY 2020.
Railway-Highway Grade Crossings	245	245	1,225	New emphasis on reducing pedestrian fatalities and increases federal share to 100 percent.
FHWA Ferry Program	80	86	440	California received $3.2 billion in FY 2018 when the program was funded at $80 million. WETA and GGBHTD received nearly half of the statewide allocation.
New Formula Programs				
Formula Safety Incentive Program	-	500	2,500	California's program share would be $47 million in FY 2021; Of this, the Bay Area would receive an estimated $6 million in suballocated funds.
Carbon Reduction Incentive Program	-	600	3,000	California's program share would be $56 million in FY 2021; Of this, the Bay Area would receive an estimated $7 million in suballocated funds.
PROTECT (formula)	-	786	3,930	California would receive $74 million in FY 2021.

America's Transportation Infrastructure Investment Act vs. FAST Act Funding, cont.
$ in Millions
(authorization of Highway Trust Fund revenues, unless otherwise specified)

	FAST Act (FY 2020)	**ATIA (FY 2021)**	**ATIA Total (5 years)**
Freight, Bridge and Climate Change Discretionary Programs			
INFRA	1,000	1,050	5,500
Bridge Investment Program (50 percent HTF-funded)	-	1,200	6,530
Safety Performance Program	-	100	500
Congestion Relief Program	-	100	500
Carbon Reduction Performance Program	-	40	200
Charging and fueling infrastructure grants	-	100	500
PROTECT (competitive)	-	200	1,000
Clean Ports	-	60	370
Other Programs			
TIFIA	300	300	1,500
Technology and Innovation Deployment	68	135	675
Intelligent Transportation Systems	100	110	550
Community Connectivity Planning and Implementation	-	34	120
Planning Prioritization Pilot	-	10	50
Disaster Relief Mobilization Pilot	-	1	5
Data Integration Pilot Program (GF)	-	3	13
Emerging Technologies Research Pilot Program (GF)	-	5	25
FAST Act Rescission	7,569	-	-
Repeal of FAST Act 2020 Rescission	(7,569)	-	-
Other	2,287	3,213	17,284
TOTAL FHWA Contract Authority	**47,104**	**55,128**	**287,267**
TOTAL FHWA General Fund Authorizations	**100**	**1,358**	**6,733**
TOTAL AUTHORIZATIONS	**47,204**	**56,485**	**293,999**

Source: MTC staff analysis of July 29, 2019, Eno Center for Transportation ATIA funding authorization estimates

Note: Totals may not sum due to rounding.